



# **FREDERICK COUNTY PLANNING COMMISSION**

## **February 11, 2015**

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**TITLE:**

**Center at Monocacy: Lot 1**

**FILE NUMBER:**

**SP 96-35 AP #14992, APFO #14993, FRO #14994**

**REQUEST:****Site Plan Approval**

The Applicant is requesting Planned Commercial/Industrial Development Site Plan approval for a 6,084 square foot restaurant, and an 8,515 square foot restaurant, on a 3.116-acre site.

**PROJECT INFORMATION:****ADDRESS/LOCATION:**

5100 Pegasus Court

The site is located at the corner of MD 85, and Pegasus Court.

**TAX MAP/PARCEL:**

Tax Map 86, Parcel 245, Lot 1

**COMP. PLAN:**

Limited Industrial

**ZONING:**

Limited Industrial

**PLANNING REGION:**

Frederick

**WATER/SEWER:**

W-1, S-1

**APPLICANT/REPRESENTATIVES:****APPLICANT:**

St. John's Properties

**OWNER:**

Liberty SWM, LLC

**ENGINEER:**

Harris, Smariga & Associates, Inc.

**ARCHITECT:**

N/A

**ATTORNEY:**

N/A

**STAFF:** Tolson DeSa, Principal Planner II

**RECOMMENDATION:**

Conditional Approval

**ATTACHMENTS:**

Exhibit 1 -Center at Monocacy Lot 1 Site Plan Rendering

Exhibit 2 -Lighting Modification Request

Exhibit 3 -Letter of Understanding (LOU) Center at Monocacy Lot 1 and 15

# STAFF REPORT

## ISSUE

### Development Request

The Applicant is requesting Planned Industrial Development Site Plan approval to construct a 6,084 square foot restaurant, and an 8,515 square foot restaurant, on a 3.116-acre Site. The proposed uses are being reviewed through the "Restaurant" land uses under the Commercial headings per §1-19-5.310 Use Table in the Zoning Ordinance as principal permitted uses in the Limited Industrial Zoning District subject to site development plan approval. This project is also being reviewed and approved under the provisions of Zoning Ordinance Section 1-19-10.300 Planned Commercial/Industrial Development Standards.

### Modification Request

1. Lighting spillage modification

## BACKGROUND

### Development History

This Site had prior site plan approval for a 21,775 square foot one story office business/restaurant/commercial retail building for uses permitted in the LI zoning district. This site plan was approved by the FCPC at their meeting on December 12, 2012. The building was never constructed.

### Existing Site Characteristics

The Site is currently zoned Limited Industrial (See Graphic #2), and is a vacant stormwater management pond (See Graphic #1). The property to the east is currently developed as Lot 2 of Center at Monocacy and is used as flex office/industrial space. The property across Pegasus Court to the south is currently developed, with a 8,000 square foot one-story restaurant structure and a 8,125 square foot one-story day care structure on a 3.699 acre Site.

Graphic #1: Center at Monocacy Lot 1 Site Aerial

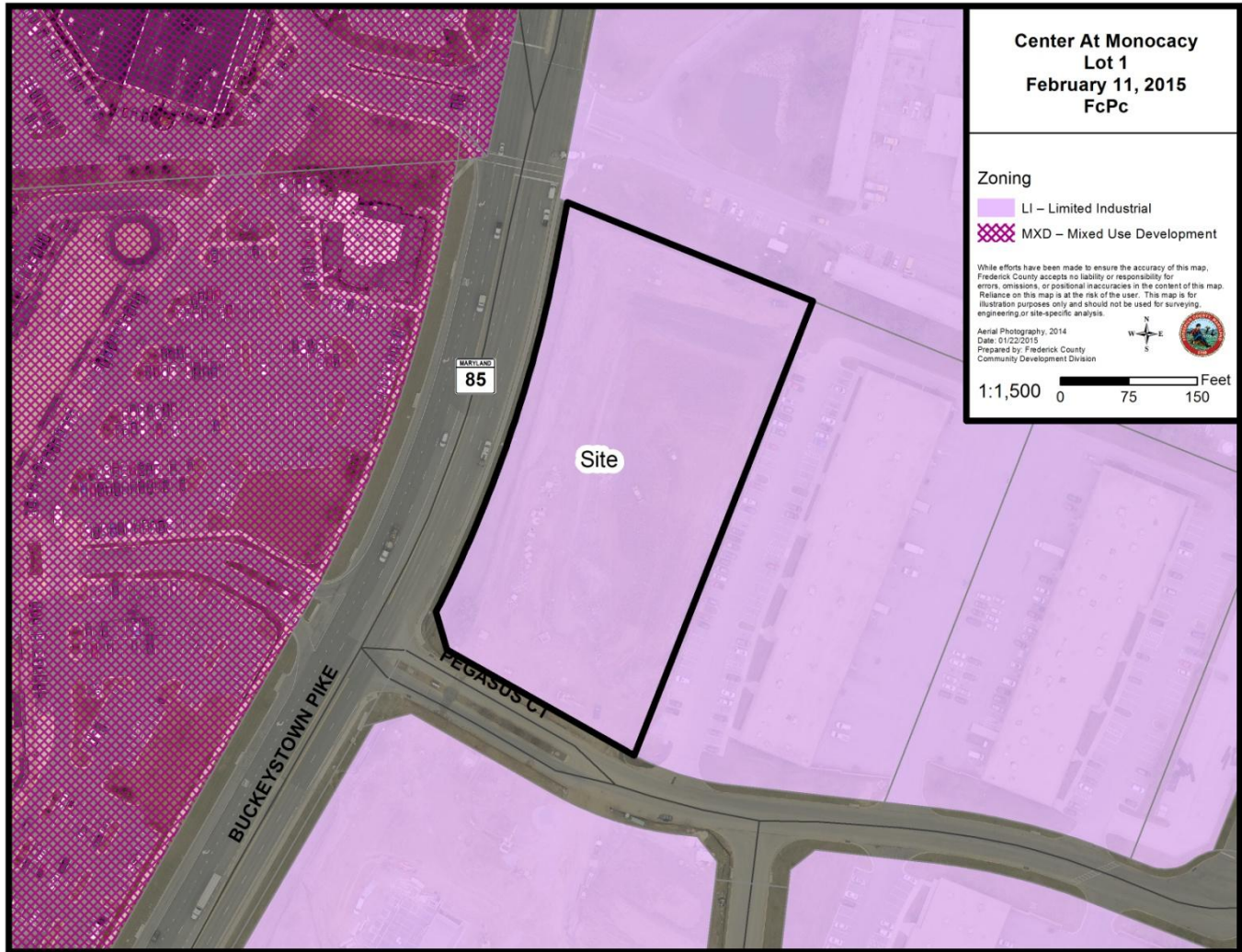


Center at Monocacy Lot 1

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Graphic #2: Center at Monocacy: Lot 1 Zoning Map



### Summary of Development Standards Findings and Conclusions

The key issues related to this Site are the following; future access connections, common access with Lot 2, availability of two-way traffic flow to the rear of the proposed building, and pedestrian access to the sidewalk along MD 85.

The future access connections to the adjacent parcel located to the north are important to the long term success of this Site. When the SHA parcel is eventually redeveloped and future access connections are constructed, Center at Monocacy will have full movement access to a signalized intersection directly across MD 85 from the Westview Shopping Center development.

In 2008 Staff required the consolidation of access points with Lot 1 and Lot 2 as part of a separate site plan. The Applicant closed the westernmost access drive to Lot 2 and 3 in favor of a common drive that provides access to Lot 1 and Lot 2 as well as Lot 3.

The Applicant also proposed the construction of sidewalks running down Pegasus Court as well as down the northern property boundary to connect to the existing sidewalk along MD 85. These proposed sidewalks will allow pedestrian access to MD 85 from Lot 1 and 2 as well as the parcel to the north, once SHA vacates and it is re-developed.



## Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

**Site Development §1-19-3.300.4 (A):** *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

### **Findings/Conclusions**

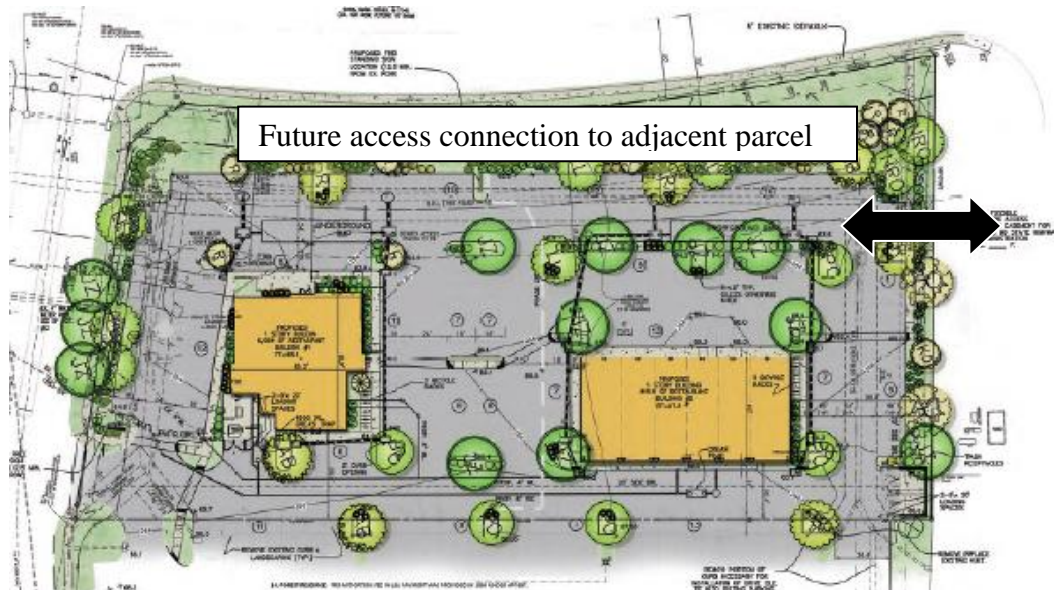
1. **Dimensional Requirements/Bulk Standards §1-19-6.100:** Section 1-19-6.100 of the Zoning Ordinance stipulates the setback requirements and the minimum lot area for the proposed use. The setback requirements are 25-foot front and 20-foot rear, and side yards shall be equal to the height of the structure. The proposed height is 20 feet. The proposed plan meets the required Bulk/Dimensional requirements.
2. **Signage §1-19-6.300:** A recent zoning determination was made by the County Zoning Administrator during the approval process of another Planned Commercial/Industrial Development sites, which granted the PCID site(s) 20√F for their respective signage. The Applicant is proposing a signage for Building #1 not to exceed 261.5 square feet, and 280 square feet for Building #2 with a maximum height of 25 feet for free standing signs, which complies with zoning ordinance requirements. The Applicant is proposing one freestanding sign per street frontage, one located along MD 85 and a second at the driveway entrance on Pegasus Ct.. Aside from the zoning determination regarding the sign multiplier, all signage will comply with the regulations of Zoning Ordinance Section 1-19-6.300.
3. **Landscaping §1-19-6.400:** The Applicant has proposed a landscape plan in accordance with Zoning Ordinance Section 1-19-6.400. The proposed plan includes street trees and existing vegetation together with new plantings to be located along common property lines. The Applicant has provided increased landscaping treatments along the road frontage of MD 85.
4. **Lighting §1-19-6.500:** The Zoning Ordinance provides that pole and building mounted lighting shall not exceed a maximum height of 24 feet for industrial uses. The Applicant has submitted a lighting plan that proposes 14-18 foot tall pole lights as well as 18 foot tall building mounted lights throughout the Site which comply with zoning ordinance requirements. The Applicant's plan does propose lighting levels over 0.5 foot candles along the common property boundary with Lot 1 and the existing Center at Monocacy Lot 2 to the east. Therefore, in accordance with Z.O. Section 1-19-6.500.G the Applicant is requesting a modification for the spillage along the common property line (See Exhibit #2). Staff has no objection to the light spillage proposed because the relocated lights along the border of Lot 1 and 2 provide improved levels of lighting and safety for the users of both lots.

**Transportation and Parking §1-19-3.300.4 (B):** *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

## **Findings/Conclusions**

- 1. Access/Circulation:** Access to the Site is from Pegasus Court. There is two way circulation around the rear of the building as well as two-way circulation and access around the front of the building. There is a future access connection to the SHA property to the north proposed on Lot 1. This connection would provide the Center at Monocacy with full movement access to MD 85 via a signalized intersection once the SHA parcel is redeveloped.

The main entrance to the Site also provides access to Lot 2 as well as Lot 3, via a common access drive. The existing westernmost access to Lot 2 will be closed in order to facilitate the common access drive for Lots 1 and 2.



2. **Connectivity §1-19-6.220 (F):** The Site is located at the corner of Pegasus Court and MD 85. The site plan proposes to close one of the existing Lot 2 access points. Lot 1 will connect to the adjacent Lot 2 via a common access drive located off of Pegasus Court. There is a joint use and parking lot easement and maintenance agreement recorded between Lots 1 and 2 recorded in the land records at Liber 7037, Folio 787.

A future access connection to the SHA parcel is proposed as part of this development proposal.

3. **Public Transit:** This Site is served by the MD 85 Commuter Shuttle, which runs Monday through Friday and drops off/picks up at Executive Way in the adjoining Omega Center development. The provision of sidewalks will provide access to nearby bus stops.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** The zoning ordinance requires 1 parking space for every 50 square feet of restaurant customer service area, excluding food preparation and storage. The Applicant is proposing 6,084 square feet of restaurant space for Building #1 with 4,685 square feet devoted to food preparation and storage; therefore, 94 parking spaces are required. The Applicant is proposing 8,515 square feet of restaurant space for Building #2 with 6,301 square feet devoted to food preparation and storage; therefore, 126 parking spaces are required. Based on these calculations, the Applicant is required to provide a total of 220 required parking spaces; the Applicant has provided 220 parking spaces, including 7 handicapped accessible parking spaces in accordance with the code requirements. The Applicant is required to provide 1 large or 2 small loading spaces in accordance with Zoning Ordinance Section 1-19-6.210 for each building. The Applicant has complied with this required by placing four small loading spaces on site.

5. **Bicycle Parking §1-19-6.220 (H):** The zoning ordinance requires 1 bicycle rack for each 20 auto parking spaces, which works out to 11 racks for this Site. However, the Applicant is proposing 10 racks which comply with the code requirement of a maximum of 10. Five (5) racks will be located at each building.
6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** The Applicant is proposing a sidewalk along the north property line as well as down Pegasus Court to connect to the existing sidewalk located along MD 85.

**Public Utilities §1-19-3.300.4 (C):** *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

### **Findings/Conclusions**

1. **Public Water and Sewer:** The Site is to be served by public water and sewer and is classified W-1, S-1. The entire Site is in pressure Zone #1 with water coming from New Design Water Treatment Plant and sewage flowing into the Ballenger McKinney Wastewater Treatment Plant. While the public sewer and water facilities are currently adequate to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased.

**Natural features §1-19-3.300.4 (D):** *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

### **Findings/Conclusions**

1. **Topography:** Lot 1 is flat and sits slightly higher than MD 85. The proposed plan will not significantly alter the existing topography on site.
2. **Vegetation:** The Applicant is proposing a landscape plan in accordance with Zoning Ordinance Section 1-19-6.400.
3. **Sensitive Resources:** Although County maps indicate a small band of flooding soils on the Site, it is located in an area already developed and significantly altered by a SWM pond. To that end, traditional flooding soils mitigation may not be applicable, however staff will ensure that on-site grading and drainage comply with all appropriate zoning ordinance regulations as well as the SWM review and approval process.
4. **Natural Hazards:** Based on available mapping, no wetlands, or FEMA floodplain are located on the Site.

**Common Areas §1-19-3.300.4 (E):** *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

1. **Proposed Common Area:** This criteria is not applicable as the Applicant proposes no Common Areas requiring Planning Commission review of ownership, use, and maintenance.

## Other Applicable Regulations

**Moderately Priced Dwelling Units – Chapter 1-6A:** The proposed use is non-residential; therefore, MPDUs are not required.

**Planned Commercial/Industrial Development Standards-§1-19-10.300:** This development proposal adheres to all of the standards listed in Z.O. Section 1-19-10.300.

§1-19-10.300. (A) *Purpose and intent.* In summary, the Planned Commercial/Industrial Development process is intended to encourage a concentration of uses and limit strip development, to provide for controlled access/convenience/efficiency for users, and to allow more than 1 principal use or building on a single lot in the GC, ORI, LI and GI zoning districts where flexibility in planning can be permitted without disturbing the neighborhood. Within the Limited Industrial the Planned Commercial/Industrial development process allows the use and development of a site for multiple users that may rotate over time without the necessity of subdividing the property. It allows for efficient and full use of an existing site that is larger in size than what is needed by an individual user. Staff has worked with the Applicant to achieve the purpose and intent of the development process as it would apply to the Limited Industrial zoning district. The proposed development meets the requirements of this section.

§1-19-10.300. (C) *Design standards.* The proposed development meets the design standards of this section. The layout has been designed to provide safe and efficient arrangement of land uses facilitating vehicular access into and throughout the Site.

The proposed uses comply with applicable supplementary Industrial district regulations as well as the Industrial District Performance Standards provided in [§1-19-7.600](#) and [§1-19-7.610](#).

**Stormwater Management – Chapter 1-15.2:** Stormwater Management (SWM) is being mitigated via two underground Best Management Practices BMP's. The stormwater management on site will comply with the 2000 stormwater design guidelines. An Administrative Waiver was approved on 9/28/12 (AP 12947). A waiver for SWM quantity control was approved on 6/22/07 (AP 3266).

### **APFO – Chapter 1-20:**

1. **Schools.** Schools are not required to be tested due to the commercial uses proposed.
2. **Water/Sewer.** While the public sewer and water facilities are currently adequate to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.
3. **Roads:** As a condition of the 2008 APFO approval for the development of Lots 1 and 15, the Applicant has already paid its proportionate contribution to 13 individual escrow accounts totaling \$168,029. The purpose of the amended LOU is to increase the current trip cap to 342 am and 322 pm weekday peak hour trips based on the more intense trip making uses now proposed in Lots 1 and 15. The additional contribution to escrow accounts when considering the proportionate greater fair shares (based on the critical pm peak hour) and the addition and deletions of escrow accounts since 2008, results in a net increase of \$25,495 being contributed to 9 updated accounts (See Exhibit #3).

The validity period extends to February 11, 2018. Any building expansion, vertically or horizontally, or combination of uses within the buildings as described on the site plan, that causes Lots 1 and 15 to exceed the stated trip cap in either the A.M. or P.M. peak hours, will require re-testing under the APFO in existence at that time.

**Forest Resource – Chapter 1-21:** This Site was mitigated for FRO in 2008. No further FRO mitigation is required.

**Historic Preservation – Chapter 1-23:** There are no Historic Resources located on this Site.

#### Summary of Agency Comments

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Conditional Approval: Minor changes that will take place at IP Stage.
<b>Development Review Planning:</b>	Hold: Address all agency comments as the plan proceeds through to completion.
<b>State Highway Administration (SHA):</b>	Conditionally Approved
<b>Div. of Utilities and Solid Waste Mngt. (DUSWM):</b>	Approved
<b>Health Dept.</b>	Approved
<b>Office of Life Safety</b>	Approved
<b>DPDR Traffic Engineering</b>	Approved
<b>Historic Preservation</b>	N/A

## **RECOMMENDATION**

Staff has no objection to conditional approval of the Site Plan. If the Planning Commission conditionally approves the site plan, the site plan shall be valid for a period of three (3) years from the date of Planning Commission approval. APFO approval is valid until February 11, 2018, approval is not necessary at this time, since the previous APFO approvals are vested unless the trip caps are exceeded.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through the process to completion.
2. Approval of the requested lighting spillage modification.
2. A waste fixture count must be performed by the Frederick County DUSWM, Division of Engineering and Planning before a building permit can be approved.
3. The proposed uses comply with applicable supplementary Industrial district regulations as well as the Industrial District Performance Standards provided in § 1-19-7.600 and § 1-19-7.610, respectively.



## **PLANNING COMMISSION ACTION**

### **MOTION TO MODIFY AND APPROVE AS MODIFIED**

I move that the Planning Commission **APPROVE** Site Plan SP 96-35 **with conditions** and modifications as listed in the staff report for the proposed Site Plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.





**Harris, Smariga & Associates, Inc.**

Planners/Engineers/Surveyors  
125 S. Carroll Street, Suite 100/Frederick, MD 21701  
301-662-4488/FAX 301-662-4906

January 28, 2015

Mr. Tolson DeSa  
Frederick County Department of Planning & Development Review  
30 North Market Street  
Frederick, MD 21701

Re: Center at Monocacy Lot 1 AP#14992  
Frederick County Zoning Ordinance Modification Request to:  
Section 1-19-6.500(D) – Lighting

Dear Mr. DeSa:

The purpose of this letter is to provide a formal petition and information on the lighting modification being requested for the proposed Center at Monocacy Lot 1.

**Section 1-19-6.500(D) – Lighting shall not exceed .50 foot-candles as measured at the property line.** *A modification to this requirement is requested to allow for increased lighting levels across the common property line with adjacent lot 2.*

As shown on the site plan a common parking lot is proposed between lots 1 and 2. This proposed parking area straddles the lot line. A joint use parking lot and maintenance agreement is recorded between lots 1 & 2 at Liber 7037 Folio 787. To efficiently and adequately light this common parking facility a modification to the .50 foot-candle limitation is requested for this area of the site.

Sincerely,

Samuel Francis Zeller  
Project Manager

cc: Rich Koors – St. John Properties

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**FREDERICK COUNTY GOVERNMENT**

**DIVISION OF COMMUNITY DEVELOPMENT**  
Department of Planning & Development Review

Jan H. Gardner  
*County Executive*

Gary W. Hessong, *Acting Division Director*  
Jim Gugel, *Director*

**FIRST AMENDED**  
**CONFIRMATORY ADEQUATE PUBLIC FACILITIES**  
**LETTER OF UNDERSTANDING**

**Center at Monocacy Lots 1 and 15**

*Site Plan #SP 96-35 (AP #12948 & 12954)*

**In General:** The following First Amended Confirmatory Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and St. John Properties, Inc. (the "**Developer**"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved site plans for general office, retail, restaurant, and day care (the "**Project**"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("**APFO**"). This Letter amends the Confirmatory Adequate Public Facilities Letter of Understanding for the property identified below dated December 17, 2012 (the "**2012 LOU**").

Subsequent to the 2012 LOU, an amended site plan for Lot 15 (AP#14901) was staff approved for a daycare center in place of a restaurant resulting in a change in vehicle trips generated and required contributions to certain road improvement escrow accounts.

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 3.116 +/- acre parcel of land (Lot 1) and the aforesaid 3.69 +/- parcel of land (Lot 15) both of which are zoned Limited Industrial (LI) and located on the north and south side of Pegasus Court, respectively and along the east side of MD 85 (the "**Property**" or "**Lot 1 and Lot 15**"). The APFO approval under the 2012 LOU is effective for the development of a new one story mixed use office/commercial building (Lot 1) and two free standing restaurant buildings (Lot 15) one of which has already been constructed. The Project described herein and this approval will be effective for the development of one existing free standing restaurant and one new free standing day care center on Lot 15 that are shown on the site plan for the Project, staff approved on December 11, 2014, and for two new one-story free standing restaurants on Lot 1 (Site Plan AP #14992).

**Schools:** Schools are not impacted because the development of the Property is non-residential.



**Water and Sewer Improvements:** The Property has a water and sewer classification of W-1/S-1. While the public sewer and water facilities are currently adequate to serve the Project, the Applicant acknowledges that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded or that building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq., and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

**Road Improvements:** In accordance with the final revised March 28, 2008 Traffic Impact Analysis by the Traffic Group, as amended December 11, 2014 with vehicle trip generation, the uses on these two lots comprising the Property are now capped at a total (combined) amount of 342 A.M. and 322 P.M. weekday peak hour vehicle trips. As a condition of the 2008 APFO approval of the development of Lots 1 and 15, the Developer has already paid its proportionate contribution to 13 individual escrow accounts totaling \$168,029 as set forth in the 2012 LOU.

As a condition of the APFO approval of the development of Lots 1 and 15 as shown on the site plans for this Project, the Developer shall pay its proportionate additional contribution to the following escrow accounts:

- 1) Improvements at MD 85 @ English Muffin Way (Escrow Account # 3253) for signalization of the intersection. The estimated cost of the Road Improvement is \$73,176. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.39%. Therefore the Developer hereby agrees to pay \$285.00 (i.e., \$73,176 x 0.0039) to the escrow account for this Road Improvement.
- 2) Improvements at MD 85 @ English Muffin Way (Escrow Account # 3761) for eastbound left turn lane and improved westbound right turn radius. The estimated cost of the Road Improvement is \$104,888. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.39%. Therefore the Developer hereby agrees to pay \$409.00 (i.e., \$104,888 x 0.0039) to the escrow account for this Road Improvement.
- 3) Improvements at MD 85 @ Spectrum Drive (Escrow Account # 4025) for southbound 3<sup>rd</sup> through lane. The estimated cost of the Road Improvement is \$1,474,010. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.16%. Therefore the Developer hereby agrees to pay \$2,358.00 (i.e., \$1,474,010 x 0.0016) to the escrow account for this Road Improvement.
- 4) Improvements at MD 85 @ Crestwood Boulevard/Shockley Drive (Escrow Account # 3257) for 3<sup>rd</sup> southbound through lane. The estimated cost of the Road Improvement is \$296,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.46%. Therefore the Developer hereby agrees to pay \$1,362.00 (i.e., \$296,000 x 0.0046) to the escrow account for this Road Improvement.
- 5) Improvements at MD 85 @ Crestwood Boulevard/Shockley Drive (Escrow Account # 3279) for Crestwood Boulevard acceleration lane. The estimated cost of the Road Improvement is \$103,870. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.46%. Therefore the Developer hereby agrees to pay \$478.00 (i.e., \$103,870 x 0.0046) to the escrow account for this Road Improvement.

- 6) Improvements at MD 85 @ Crestwood Boulevard/Shockley Drive (Escrow Account # 3280) for northbound right turn lane. The estimated cost of the Road Improvement is \$251,339. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.46%. Therefore the Developer hereby agrees to pay \$1,156.00 (i.e.,  $\$251,339 \times 0.0046$ ) to the escrow account for this Road Improvement.
- 7) Improvements at MD 85 @ Crestwood Boulevard/Shockley Drive (Escrow Account # 3281) for 3rd restriping of Shockley Drive. The estimated cost of the Road Improvement is \$77,960. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.46%. Therefore the Developer hereby agrees to pay \$359.00 (i.e.,  $\$77,960 \times 0.0046$ ) to the escrow account for this Road Improvement.
- 8) Improvements at MD 85 @ Crestwood Boulevard/Shockley Drive (Escrow Account # 3282) for 4<sup>th</sup> NB through lane. The estimated cost of the Road Improvement is \$1,158,300. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.46%. Therefore the Developer hereby agrees to pay \$5,328.00 (i.e.,  $\$1,158,300 \times 0.0046$ ) to the escrow account for this Road Improvement.
- 9) Improvements at MD 85 @ I-270 Southbound Ramps (Escrow Account # 3259) for intersection widening. The estimated cost of the Road Improvement is \$3,200,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.43%. Therefore the Developer hereby agrees to pay \$13,760 (i.e.,  $\$3,200,000 \times 0.0043$ ) to the escrow account for this Road Improvement.


The total contribution to these nine (9) escrow accounts total \$25,495.00. Should this payment not be made within one year of the execution of this Amended LOU, the County reserves the right to adjust this amount, based on an engineering cost index. This Letter combines the previous APFO approvals for Lots 1 and 15, including the caps and escrow contributions.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on February 11, 2018.

**Disclaimer:** This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures on next page]

**DEVELOPER: St. John Properties, Inc.**

By:  Date: 2/2/15  
Name: Matthew F. Holbrook  
Title: Regional Partner

**FREDERICK COUNTY PLANNING COMMISSION:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Robert Lawrence, Chair or William G. Hall, Secretary

**ATTEST:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Gary Hessong, Director, Division of Permits & Inspections

*Planner's Initials / Date* \_\_\_\_\_

*County Attorney's Office Initials / Date* \_\_\_\_\_  
(Approved as to legal form)